

FILED

MAY 19 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAY B. FORD,

Petitioner - Appellant,

v.

CHERYL K. PLILER, Warden,

Respondent - Appellee.

No. 05-16073

D.C. No. CV-01-04267-SBA

MEMORANDUM^{*}

Appeal from the United States District Court
for the Northern District of California
Saundra B. Armstrong, District Judge, Presiding

Submitted May 15, 2006^{**}

Before: B. FLETCHER, TROTT and CALLAHAN, Circuit Judges.

California state prisoner Ray B. Ford appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 petition challenging his bench trial

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

conviction for one count of battery by a prisoner on a non-prisoner. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

Ford contends that his right to due process was violated by the six-month delay between the underlying incident and the issuance of the criminal complaint against him. The district court did not err in determining that the state court decision was not contrary to or an unreasonable application of clearly established federal law because Ford has not shown actual, non-speculative prejudice from the delay. *See United States v. Huntley*, 976 F.2d 1287, 1290 (9th Cir. 1992).

The request to broaden the certificate of appealability is denied. *See* 9th Cir. R. 22-1(e); *Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED.